



State of Illinois
Illinois Department of Human Rights

CREDIBILITY NOTICE

The Cooper v. Salazar injunction

The Illinois Department of Human Rights ("Department") is under a federal-court injunction that, among other things, orders the Department:

"to cease permanently from relying on credibility determinations made without affording the rights of confrontation and cross-examination".

See, Cooper v. Salazar, #98 C 2930, U.S. District Court for the Northern District of Illinois, Order dated November 1, 2001, at p. 26, ¶1.

Meaning of the Cooper Injunction

The Department cannot assess the credibility of Complainant's testimony, the testimony of Complainant's witnesses or the testimony of Respondent's representatives or the witnesses of Respondent where there is conflicting testimony. In other words, if the determination of substantial evidence turns on issues of credibility, the Department should make a finding of substantial evidence so that a trier of fact may resolve those issues of credibility. This means that if a determination of lack of substantial evidence requires the Department to make a finding of fact as to conflicting evidence, the Department will make a finding of substantial evidence so that credibility may be resolved by the Human Rights Commission at a Public Hearing.

The Illinois Human Rights Act defines "substantial evidence" as:

"evidence which a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance". Illinois Human Rights Act §7A-102(D)(2), codified at 775 ILCS 5/7A-102(D)(2).

The meaning of credibility

The Illinois Department of Human Rights is an investigatory agency. The Department's purpose is to gather all of the evidence from each of the parties as to whether Respondent may or may not have discriminated against the Complainant within the meaning of the Illinois Human Rights Act. The Department's purpose is to review all of the evidence and make a determination based upon the law as to whether there is sufficient evidence of discrimination to file a complaint against the Respondent with the Illinois Human Rights Commission. The Department will not make a finding that evidence submitted by a party is either believable or not believable. Thus, the Department will not base its findings on the fact that one of the parties is not telling the truth or that one party's evidence is not believable. If the resolution of the charge of discrimination requires believing the evidence of one party over another party, the Department will make a finding of Substantial Evidence and refer the matter to the Illinois Human Rights Commission so that a trier of fact may resolve the case.

Conflicting evidence exists when there are:

- 1) Statements of a person with material firsthand knowledge contradicted by statements of a different person with material firsthand knowledge.
- 2) Business records contradicted by oral statements of a person with material firsthand knowledge.
- 3) Business records of one person contradicted by business records of another person.

By the authority of the State of Illinois (2212013ENGChargeProcessing)